 K Linlithgow

A Short INFORMATION OF THE PLEA BETWIXT THE Town Council of LITHGOW, AND Mr. James Kirkwood SCHOOL-MASTER There,

Whereof a more full Account may perhaps come out hereafter.

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MR. *James Kirkwood* being Famous for his special skill in Teaching Youth; particularly by his framing, and publishing a new Latin Grammar & Rhetorick; very much approved by most of all the Learned Men of this Kingdom; and for the *Specimen*, or Essay he made on the deceast Lord *Bruce*, by teaching him in a very short time Latin, and Greek, was called by the Magistrates of *Lithgow* in the Year 1674, from that honorable and profitable service in the Earl of *Kincardins* Family, not without very much entreaty and good offers, to be School-master of that Burgh: And that not after the manner of his Predecessors, who contracted with the Town for a certain limited time, as five years; particularly Mr. *Skeneb* and Mr. *Cryste*, his two immediate Predecessors: Whereas he positively refused any stinted, or limited time; tho he had offered him 13, 19, or what

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years elſe he pleaſed to name: But he was admitted in general and abſolute terms; as all Profeſſors of Liberal Arts uſe to be, implying *Ad Vitam* vel *Culpam*; as his Act of Admiſſion bears.

Thus he continued 14 years (longer, than any one, and ſome ſix of his Predeceſſors, at leaſt in our age) to the great ſatisfaction of that place, living inoffenſively without the leaſt ſhadow of any ſtain, and duly receiving all the Emoluments and Profits of his Place; particularly a Salary of 400 Merks yearly according to agreement without any grudge, debate, or queſtion about the Sum.

But in *Aprile* 89 at the revolution of Affairs in this Kingdom the old Council going all off, and a new One of a different perſwaſion as to the Government of the Church coming into their room, they not ſo much deſire, as preſs, yea threaten Mr. *Kirkwood* to forſake the publick place of Worſhip, and to go with them to the Meeting houſe, which was kept in the Proveſt's own Kitchin: For *Walter Stuart* of *Pardivin*, whom Mr. *Kirkwood* had taught his Engliſh, Latin, and at leaſt ſome Greek a few years before, (he being only then newly entered Major) told him in a very magiſterial manner, that, unleſs he went with them to the Meeting houſe, he ſhould not be long School-maſter in *Lithgow*. This was done on the 13 of *Aprile* 89 in the houſe of one *James Johnſtoun*, in preſence of about 28 perſons of the chiefeſt of that Perſwaſion in the Town, 12 dayes before *Pardivin* was made Proveſt.

'Tis known to all, that are acquainted with Mr. *Kirkwood*, of how moderate Principles he is in theſe matters, ſo much under Debate in this Kingdom. In a ſtrict ſenſe he is neither *Presbyterian*, nor *Epiſcopal*, humbly judging the External Policy of the Church indifferent, and to be diſpoſed of by the Powers of the Land. And what they once ſettle and determine, becomes the Duty of Private Perſons, and ceaſes to be indifferent. Upon this ground he refuſed to forſake the publick Place of Worſhip, till either the Convention of Eſtates, that was newly ſit down, or the then enſuing Parliament, ſhould make a change in the Government; And then, he ſaid, *he would cheerfully concur*; For he thinks it his Duty to follow, and not to run before the Laws in theſe matters.

This he not only promiſed by word, once and again, (for many communings had he with them) but to aſſure them of his ſincerity, he gave it in a Letter written and ſubſcribed with his hand to *Pardivin*, the

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very day before he was elected Proveſt; for they two had had a long conference the day preceeding upon that head; And at parting he deſired Mr. *Kirkwood* to think on it all night, and give an anſwer the next day; which he did by a Line reſerving to himſelf a double, both which he ſhewed two Gentlemen, before he ſent it, and in their preſence gave the Principal to the Bearer, whatever might be the event of Things: And, which confirms all, he got a return from *Pardivin*, written and ſubſcribed with his own hand. Moſt of the Lords of Seſſion have ſeen Mr. *Kirkwoods* Letter, and all of them do acknowledge, it is moſt diſcreetly written, and that no more can be required of any Man, than what he there promiſes. Theſe Letters are ſet down *Ad longum* in that larger Account with a thouſand other very ſtrange things, which were too tedious here to relate.

But ſuppoſe he'd had the freedom to go to their Meeting-houſe (for he is not very ſcrupulous in theſe Points: He can hear *Presbyterian*, *Epiſcopal*, *Papiſt*, yea a *Turk* or *Heathen* make a good diſcourſe) yet he could not do it at that Juncture: For he was ſure, it would give great offence to very many of both ſides. Some were already ſtumbling to ſee him ſo frequently converſing with the Proveſt; and he can inſtance them, that cry'd to him in the High-ſtreet, *Turn Coat*, *Turn Coat*.

And further, his ſimple going to their Meeting would not have given ſatisfaction; unleſs he had conform'd in a hundred other things: He behoved to have forſaken all his old Friends. In a word, he was to learn a new Language. It offended them, when he call'd a Miniſter, *A Miniſter*. *Curate* you muſt ſay if you'l be a true Proſelyte. When no words could prevail with him, they try more ſevere and cruel meaſures, by doing him great Acts of Injuſtice and Oppreſſion. They quarter upon him Men and Horſes which was never done before, to him nor any of his Employ in that place. Nor was there any neceſſity to quarter on him, for it can be inſtructed, that 14 Families next to his had not ſo much as one Man, or Horſe; and he had 4 of each ſort. thô it was a foot Regiment. Nor had he any Accommodation for ſuch Lodgers, but was forced to ſet theſe Horſes in a Room without Heck or Manger, full of Houſhold-pleniſhing. There were alſo Billets drawn upon him for the *Danes*; but he was turn'd out of Doors, as you ſhall hear, before they came to that Place.

And, which was yet more Unreaſonable, and tended more to the Hurt both of the Place, and *Mr. Kirkwood*, the Proveſt cauſed Gentlemen

men carry away their Sons from the Scheol, and that 5 or 6 Moneths before there was any report of his going from that place. The Circumstances of this Business are so Odd, that it is Odious to relate them. A full account is given in one Instance in that larger Information, about *James Carmichael* of *Potishaw*.

These most Cruel and Unjust Methods having no more effect, than the former, they fall on a third, which was to lessen his Salary. And therefore on the 12 of *October* 89 they make an Act, reducing it from 400 to 300 Merks a year, after Martimas then next: Lower at that time they could not go; For the Doctor has 200, and it had been a shame to level the Master with the Doctor: But the Provest told *Mr. Kirkwood*, that Doctor was to be turned out, and they were to give less to another: And then they might step a little lower; for it was as lawful to restrict his Salary to one, or two; as to 300 Merks. The circumstances of this Act are very remarkable: It was made altogether without his knowledge, they neither directly, nor indirectly acquainting him they designed any such thing. And is it not very strange, that one party should destroy a Contract, and make a new one without the knowledge and consent of the other? This is down right contrary to the very Nature of all Contracts; for they imply a mutual consent of Parties.

On the 19 of *October* (8 dayes after it was made) the Provest sent for *Mr. Kirkwood* to his Chamber, and intimated the Act. He somewhat surprized with the thing, reply'd, *'Tis a Question, if I'll submit to your Act: If you will not*, reply'd the other, *you must flit and remove. That's another Question*, said Mr. *Kirkwood*.

In short, for it were tedious to relate here all that past, you have it at large in the other Account, and it is sufficient to shew here, that before that day eight dayes another Master was brought from *Edinburgh*, who by Act of Council was settled, and *Mr. Kirkwood* deprived of his Office, and ordained to remove from it at *Martimas* then next. He that day took Instruments in face of Council, that he was willing to serve according to agreement; as his Instruments bear of the date 26 of *October* 89.

Now suppose (which must not be granted) the Town had power either to lessen his Salary, or to put him away without a fault (for hitherto they did not so much as pretend the least shadow of any misdemeanour And certainly, if they had known any, they would not have fail'd to lay it to his charge) that ought to be done legally and justly; according

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to the Laws and Practick of this Nation. No *Maſter* can remove his Tenant, Cottar or Servant after this manner. 14 dayes is a very ſummary warning to turn a Man with a numerous Family of young Children out of doors in the cold of Winter. Nor can *Martimas* be his Term, as is proved in the larger Information.

After ſo much hard Uſage, Cruelty, and Injuſtice, he thinks it more than time to ſeek out for a Remedy, looking on the Town Council, as both Judge and Party. And therefore he makes his Application to the Lords of Council and Seſſion, by giving in to them, one Bill to ſuſpend the Towns Act of Deprivation; another to Advocate the cauſe of removing from his houſe, and a third to ſuſpend an Act, whereby they moſt unjuſtly fin'd him in 200 merks.

This laſt about the Fine, is a buſineſs that highly concerns *Mr. Kirkwood*; not ſo much, as to his Purſe, as his good Name: For they thereby ſtigmatize him with one of the Blackeſt Crimes a *Man* can be guilty of, calling him openly at the Bar, and in their Informations to the Lords, *A Reviler of the Gods of his People*: By *Gods* meaning the 27 *Members* of the Town Council; ſo that the Deacons of the Webſters, Sutors and Taylors in *Lithgow* are *Gods* forſooth! They alledging, (for *Mr. Kirkwood* poſitively denies it) he ſaid, *The Town Council may think ſhame of their Actings*. Theſe are the words in their Act of Amerciament, for which he is called, *A Reviler of the Gods*: But too much of this here. There's a large and a full account given of this buſineſs in a Paper by it ſelf, which well deſerves to be intitul'd, *The Hiſtory of the twenty ſeven Gods of* Lithgow; wherein you ſhall ſee ſuch ridiculous and droll ſtuff, ſuch wild and extravagant Acts, ſuch cruel and illegal Pranks, that tho you made ſearch into the whole Records of all the Burghs in this Kingdom from their firſt erection to this day, you ſhall not meet with any thing, that can parallel this. Here you'l ſee one Baily cauſing drag another to Priſon, for words that had paſt betwixt themſelves at Court; and he breaking Priſon, is hal'd to it again by his own Officer to the great amazment and laughter of hundreds of People. Here you may read how one Baily calls other two in face of Council (the one ſitting *Preſes* at that time) *Perjured Villains, and Knaves*. Here you'l ſee ſome Burgeſſes, even of the beſt rank in the Burgh, ſtaged for not taking off their Cape, when they paſt by the Proveſt in the ſtreet, tho ſtanding at a tolerable diſtance; others for taking it off and making too low a leg. In a word, Innocent, harmleſs, dumb Beaſts do not eſcape their fury, for Baily *Turnbul*, now my Lord Proveſt ſhut up in cloſs Priſon within the

the Tolbooth a poor mans horſe a night and a good part of two days for taſting a little of the graſs in the Church-yard, himſelf being Jaylor, not daring commit the key's to an Officer, poſitively refuſing to let the poor man give his own horſe a peck of draff, that he had bought for his ſupper. Nor is the relation of theſe and many ſuch paſſages impertinent digreſſions, but moſt conducing to the Subject there in debate.

With pardon for this, 'tis ſufficient here, you know, that this buſineſs, for which Mr. *Kirkwood* was fined in 200 merks, is altogether extrinſick to the Plea in hand, and could not give any riſe nor occaſion to it: For he was deprived of his office; yea, another Schoolmaſter was brought from *Edinburgh*, before this had any being: So that to alledge, or infer any thing from it, as the Cauſe, or Occaſion of the other, is of all things in nature the moſt monſtrous. 'Tis to make the Effect precede the Cauſe, as if one ſhould aver the ſon to be in the world many years before the Father was born.

To return therefore again to our Point beſides the three Bills, he gave in alſo a Petition humbly begging their Lordſhips would be pleaſed to diſcuſs the Cauſe upon the Bill, which was granted; and recommended to my Lord *Aberuchal*, the Ordinary at that time to hear both Parties; and in caſe of difficulty to make report to the whole Lords.

After that the Cauſe was ſeveral times debated at the Bar, and Report made to their Lordſhips, they found, that the Town could not remove Mr *Kirkwood* either from his Charge of School maſter, or from his Houſe *At that time: upon that ground*, and *After that manner*, as the *Interloquitor* at more length bears, of the date 12 *December* 89. They did indeed ſuſtain the Fine upon a miſtake, and recall'd it in their next.

The day following the Town gave in a Petition reclaiming againſt the Sentence, and deſiring a new Hearing upon other Grounds. The Lords being moſt willing to do them all the Juſtice Law could allow, granted their Requeſt.

The Point they had to prove, was, That Mr. *Kirkwood* had dimitted his Charge, and *Simpliciter* refuſed to ſerve any longer. The Town at firſt thought his refuſing to ſerve upon Diminution of his Salary, was a ſufficient Dimiſſion: And therefore they deſire a new Hearing to make good that Point by other Arguments. Mr. *Stuart*, Brother to *Colineſs* adduced only theſe two following.

First,

First, said he, Mr. *Kirkwood* took his leave of his Scholars, and exhorted them to be obedient and submissive to their new Master; *Ergo*, he dimitted. It was answered, That after the Key of the School was taken violently out of his Pocket by the Town Officers, as Instruments then taken (11 *Nov.* 89.) bear; he made indeed a Discourse to his Scholars for half an hour, most seriously recommending to them their Duty to GOD and Man; particularly exhorting them to be obedient and submissive to all supreme Powers, whom GOD in His Providence set over them; to all subordinate Rulers, Magistrates, Parents and whatever Masters they might have after him. The Lords found this made for, and not against him; being a very great Symtom of a peaceable spirit.

The 2*d* argument was in these express words: Mr. *Kirkwood* went into the School, and welcomed the new Master, by taking him by the hand and wishing him all Joy and Happiness in his Charge. This said Mr. *Stuart*, is an unanswerable Argument, and a most certain homologation of his dimission. And to speak the truth, it made Mr. *Kirkwoods* Advocates look one to another: but being a matter of Fact it was fittest to be answered by himself, and therefore he said to the Judge: My Lord, if it can be instructed, that I have set my foot within the School, since that man, whom they call their School-master entred it; yea, or that I spoke to him all my life within, or without the School, about that, or any other Affair, I shall lose the Cause. I wonder, my Lord, continued he, how Men, who pretend so great strictness in matters of Religion can contrive meer Falshoods and Lies, to carry on an unjust Cause. *James Stuart*, said my Lord, speaks as he is informed. I am sorry, my Lord, reply'd Mr. *Kirkwood*, such Informers should be our Reformers.

This Hearing being reported to the Lords, they again confirm their former *Interloquitor* in Mr. *Kirkwoods* favours, unless the Town could produce under his hand a Dimission, or he durst not depone he did it not in face of Council. The first they could not do, and he was clear to do the other.

Upon this fell out a very deep design or (to give it a more proper name) a Hellish Plot against *Mr. Kirkwood*; not his person, but, which is worse, his good name: For the Provest did contrive a way to make him eternally Infamous, by proving him Perjured, if he should depone he did not dimit: But, thanks to the Almighty, he escap't, and the Contrivers are fallen into the Pit, they digg'd for another.

It were too tedious to relate this Story here, and we have no will to make a 2*d* digression. 'Tis done to the life in the larger Information, so convincingly, that no man can deny the force of the Arguments:

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For they are equal to *Demonſtrations*, and by their Conſequence moſt of the Town Council according to the Proveſts Principles are Perjured, or yet in the ſenſe Baily *Bear* in face of Council call'd Baily *Higgins* and Baily *Smith* Perjured Knaves, and tho Law does not reach them as guilty of this horrid iniquity, yet they will be found to have made a moſt deliberate, malicious, and Judicial Lie, which is certainly in the next degree to Perjury.

The Town having loſt this Plea, makes another Act on the 25 of *December* 89, ordaining Mr. *Kirkwood* to remove at Candlemas then next. 'Tis ſtill an illegal and ſummary Warning, there not being 40 days to the Term: To ſay nothing of the unlawfulneſs, and unſeasonableneſs of forcing any Perſon to flit in the middle of Winter with a numerous Family of young Children, it being to be ſuppoſed, there are not then houſes to be ſet. It might alſo be added, that this Act was made (as Laws then ſtood) on a day ſet a part for another work: The Lords of Seſſion not then daring ſit according to Law.

Mr. *Kirkwood* did alſo ſuſpend this Act, which being debated ſeveral times at the Bar before the Lord *Philiphaugh*, at laſt after a full hearing on the 28 of *Jan.* 90, his Lordſhip told both Parties, he would report on the laſt of that moneth: and therefore deſired them to prepare their Informations.

Mr. *Kirkwood* accordingly diſperſed his amongſt the Lords; but the Town in ſtead of theirs gave in a Petition, deſiring a new hearing before report. The Lords granted their deſire, but in the mean time diſcharged any execution to be uſed againſt the ſuſpender, as the deliverance of their Bill bears.

This Hearing was to be on the 4*th* of *Feb*: and could not be ſooner, that being *Tueſday*, and yet on the 3*d* of that moneth, contrary to the expreſs Sentence and Order of the Lords; contrary to the very Import and deſign of their own Petition, contrary to the Rules of honeſty and and human Society, and contrary to the nature of their Station and Office, they clandeſtinly and treacherouſly eject Miſtreſs *Kirkwood* with her Children and Servants, he being in *Edinburgh* attending the Plea. The particulars of this Action, being very remarkable are fully related in the larger Information.

On the ſaid fourth day the Cauſe is debated, neither Party knowing,

what was done at *Lithgow* on the 3d. A few minutes after the Debate *Mr. Kirkwood* receives a Letter from his Wife, giving ſome little account of this buſineſs. Immediately he acquaints his Advocates, whereat they being exceedingly aſtoniſh't, bid him ſhew the Letter to my Lord *Philiphaugh*. He no leſs amaz'd, promiſed to call both Parties to the Bar without fail the next day; tho he had told them, he was to Report before any further hearing; nor was it his Lordſhips turn to come out that day to the Bar; but this being an extraordinary Emergency, he ſaid, he thought it his Duty to enquire after the Reaſons of ſo illegal, and unjuſt an Action. Accordingly both Parties meeting at the Bar, Mr. *Kirkwoods* Advocates, (*viz.* Sir *Patrick Hume*, Commiſſar *Dalrymple*, and Mr. *William Monipenny*) immediately fall on that head, and ſeverely challenge the Towns Act; ſaying, it was the height of injuſtice, an exceeding great contempt of Authority; and an unparallelable inſtance of a Treacherous and Deceitful Dealing with the Lords. The Town, ſaid they, gave in a Petition, deſiring another hearing, and yet were reſolved (as the Event proves) in the mean time to Act, as if they had gain'd the Cauſe. Mr. *Stuart* anſwered, he knew nothing of it; and for ought he could think, it was a meer Calumny. For there was nothing to inſtruct the verity of the action, but Miſtreſs *Krkwoods* Letter. I'le hazard the Cauſe, repli'd her Husband, on the truth of my Wifes Letter. The Maſter of *Sair*, now My Lord Secretary, then the Kings Advocate, and employed by the Town, ſtood amazed to hear of the wild and extravagant actings of his Clients: At length he ſaid; They have hugely prejudged their own Cauſe; and ſo went from the Bar. This was all that was done at that time.

On the 9*th* of *Feb.* the Cauſe being reported, the Lords did further recommend to My Lord *Philiphaugh* to diſcuſs the Reaſons of Suſpenſion upon the Bill, and in the mean time ſtop't all execution; as the *Interloquitor* at more length bears: For in this Plea there are many Heads to be diſcuſt, ſuch as, *Whether or no, it's in the Towns power to leſſen Mr.* Kirkwoods *Salary*; *Whether they can deprive him of his Office without a fault, giving him a legal Warning*? &c. That they could not leſſen his Salary nor put him away after the manner they had done, is already determined by the Lords in two ſeveral *Interloquitors*.

So that he has abſolutely carryed this Plea; for he has never got a legal Warning: Nor have they legally leſſened his Salary.

We now go on to tell, that as to the matter of Ejection on the 3*d* of *Feb.* Miſtreſs *Kirkwood*, not well underſtanding the nature of ſuch an action, had written in *French* to her Husband ſo lamely and overly about it, that the Lords thought the Town had only *Minted* or *Aim'd* to do ſuch a thing: Thô in effect all the formalities due in that caſe were uſed; as, Putting out the fire, *&c.*

After this laſt *Interloquitor* Mr. *Kirkwood* enquired at ſeveral of the Lords, Advocates, Clerks and Writers, if there was any hazard from the Town. All, as with one voice ſaid, There was no ground, or cauſe to fear: for they were ſure, the Town durſt not meddle in that Affair, till the Lords gave out Sentence: Yet he being ſtill jealous, knowing their Cruelty and Malice, thought fit to ſecure himſelf by all means poſſible: And therefore he went to the Lord *Philiphaugh*, and humbly begg'd his Lordſhip would be pleaſed to give him ſubſcribed under his hand the Sentence of the Lords, which he might intimate to the Town, and then he was ſure they durſt not move any further in that buſineſs.

'Tis not the cuſtome, reply'd My Lord; nor is there any need to give ſuch a Paper: I aſſure you, Mr. *Kirkwood*, they dare not meddle with you. My dear Lord, ſaid Mr. *Kirkwood*; I know *Them* people better, than your Lordſhip: Ignorance, Malice and Fury, what dare they not do? Abundance of Law breaks not Law: A Paper under your Hand queſtionleſs will put a ſtop to their rage: My Lord, grant me this one Requeſt for GOD's ſake. His Lordſhip moved with theſe words, very frankly condeſcended; and gave under his hand the following Stop or Siſt.

Whereas the Lords of Counceil and Seſſion by their Interloquitor *this day upon a Report made by me in the Bill of Suſpenſion at the Inſtance of Mr.* James Kirkwood *School-maſter of* Lithgow *againſt the Town of* Lithgow, *anent the ſuſpending their Act of Deprivation pronounced by them againſt him on the* 23 *of* December *laſt, did recommend to me to diſcuſs the Reaſons of Suſpenſion upon the Bill, if the Chargers inſiſt againſt the ſaid Mr.* James; *and if they refuſe to inſiſt, that I ſhould paſs the Bill of Suſpenſion. Therefore theſe are to ſtop all further execution againſt the Suſpender, until the Chargers make their Election; whether they will inſiſt, or not, that I may diſcuſs the Reaſons, or paſs the Bill. In witneſs whereof, I have ſubſcribed thir preſents at* Edinburgh *the ſixth day of* February *1690 Years.* Sic ſubſcribitur, *JA. MURRAY.*

Thus Mr. *Kirkwood* returns home to *Lithgow* with this Protection in his Pocket, dreading no hurt from the Town, and duly, and legally intimates the ſame to the Magiſtrates; by giving them an exact Double with the Principal, deſiring, if they pleaſed to compare them, which was done by Bailie *Main* and the Town Clerk, The Bailie looking on the Principal, while the Clerk read the Double; And Inſtruments taken thereon of the date 8 of *February* 90 Mr. *Kirkwood* getting back the Principal, immediatly they carry the Double to the Proveſt; and within 3 or 4 minutes, the Council Bell rings (for the 2 Inſtruments can atteſt there were not hours betwixt the Intimation and

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the breaking up his Chamber door) and after a very short deliberation all the four Officers are sent from the Council without having any person with them to Mr. *Kirkwood's* house, who in a most violent manner break up the Chamber door, wherein he was, and first take the Keys out of his Pocket, and then drag himself, his Wife and six young Children most barbarously down stairs.

The circumstances of this Action are so rematkable, that we cannot, but at least touch some of them.

It was in the morning: The Children had not on all their Cloaths: One poor Infant, who had been a year and more under the hands of Physicians from *Edinburgh*, and else where, was snatcht away from a warm fire side to the cold Winter air. It would have pitied a heart of stone to see that Child sit by the fire: How much more to be hurried out of doors in the Winter season? And when the tender-hearted Mother begg'd the Officers, they would suffer her to cast a loose cloath about her poor Infant; they flatly refused it. The cause of this barbarous and cruel dealing you will hear immediatly. But, that, which is most considerable in this passage, is, That *William Higgins* eldest Baily, who professeth no little skill in that, as in many other Arts, had been seeing the Child 2 or 3 days before; and not only prescribed, but sent to her by his own servant some things he had composed, of which she was to take a little every day, giving strict orders she should be kept warm; while she took these Remedies. And yet in the mean time (O the height of Barbarity and Cruelty!) he sendeth her this wonderful *Antidote* by the hands of 4 rude Fellows. Nor was the condition of this Infant unknown to the whole Council, being represented to them in expres terms. It pleased GOD to remove this Child without the reach of wicked Men some time after this.

Mrs. *Kirkwood*, whom all know to be a very tender and sickly Woman, and at that time not fully recovered of a long and a dangerous Disease, was then by accident in a very course and thin Busk, being busied about a good fire in smoothing Linnen. She was in a dress fit enough for the work she was about; but not to be dragg'd out to the open Street to become a gazing-stock to the World. And was it not a very dangerous thing thus to terrifie a Woman with Child? 'Tis not fit to relate here what sad effect this fear had on her, and what risque of her Life she run. 'Tis enough to tell, that; when she most earnestly begg'd the Officers to suffer her to put on her Shoes, and cast any loose cloath about her self; at least to make fast the Coffers or Trunks that were standing open; or to lay aside the Linnens that were amongst her hands; they answer'd their Orders were not to give a minute of time,

One of the ſervants, whoſe tour it was that week to play the Cook, and it being the laſt day thereof, lookt more like a n *Ethiopian*, than an *European*; when an Officer took her by the ſhoulders; What, ſaid ſhe, ſhall I go out like a *Gypſie*? Let me get ſome clean cloaths with me. But ſhe was not heard. You muſt be content, ſaid the Fellow, with the fare your Miſtreſs gets.

Mr. *Kirkwood* thinking to ſave himſelf by laying Hands on the Horns of the Altar, (for a Mans own houſe is his Sanctuary) claſp't his armes cloſely about a ſtoup or poſt; but the rude fellows tugg'd ſo luſtily that had he not quickly let go his grip, they certainly had carried away the trunck of his Body leaving the armes in a very odd figure.

Miſtreſs *Kirkwood* having for ſhame of her busk run below a ſtair with her ſix Children; when ſhe ſaw her Husband hal'd away by the Officers, her ſhame evaniſht and a panick fear ſeiz'd on her, thinking they were going to ——————. But ſhe was miſtaken: They were not ſo cruel, as ſhe fancied. They only hurried him away to Priſon, and ſhut him up in a cloſe Room with one *George Stevenſon* a countrey Webſter; as if he had been a Malefactor.

This fear made ſuch deep impreſſion upon her ſpirit; that always thereafter, when ſhe ſaw theſe Officers, thô at never ſo great a diſtance, ſhe could not forbear trembling and ſhaking, albeit her Husband uſed all the Rhetorick he was Maſter of to diſcover the folly of that Paſſion: So that at laſt he was forced to ſend her in to *Edinburgh* and ſtay himſelf at *Lithgow*, till he diſpoſed of his Goods.

It might have been expected, eſpecially from Perſons of their Perſwaſion, that ſome regard ſhould have been had to her on the account of her Brother, Captain *Van-Beeſt* in Colonel *Ramſey*'s Regiment, who had behaved ſo well at *Killiebranky*; was ſore wounded, taken in the place, and lay long in the *Blair* of *Athole*.

But we need not make uſe of any ſuch conſideration to exaggerate this Crime: The bare and naked relation of this fact is ſuch, that thô you ſhould ſearch into the Records of all the Burghs of this Kingdom ſince their firſt erection, you ſhall not find any thing comparable to this Buſineſs. Here's the height of Injuſtice: Here's unparallelable Contempt of Authority: The ſupreme Judges of the Land are baffled, and their Authority trampled under foot. Nor is this done by a ſingle Perſon, or a few in ſome remote corner of the Nation; but by a Society; a Town Council, and, (to uſe their own words) by an Aſſembly of Gods, met at their own elbow. Nor did they act this raſhly or ignorantly; but moſt deliberately, and adviſedly; and queſtionleſs moſt wittingly, and over the belly of their own Conſciences. How is it poſ-

ſible

ſible, it can be otherwiſe? being done immediately after the Intimation of the Sentence of the Lords; in ſpite and oppoſition to their Sentence. What, as if they had ſaid, The Lords thought we had minted to do this: but we will let them ſee its not a *Mint*, but a Real Act. We value not their Sentence a pin, tho it be ſent out to us. This, and worſe too, is the genuine and true Conſequence of their actings.

But would you know, why they did things ſo furiouſly and rudely. It was to force Mr. *Kirkwood* to a Dimiſſion, as you ſhall better know from what they did on Munday thereafter: For this is not all, there is worſe coming, and yet worſe on the back of that. If ever that *Scots* Proverb, *Once wood and ay the worſe*, was verified, you will find it in this affair.

At night Miſtreſs *Kirkwood* earneſtly beſought the Magiſtrates to give her out of her own houſe ſome of the meat, that was a preparing for Dinner, (no doubt over boil'd, for they were in ſo wood a haſte, that they minded not to put out the fire) and ſome Cloathes for her Husband and her ſelf to ly on in Priſon, and her Children, that were diſperſed with the ſervants into three ſeveral Families, it not being very eaſy to get Cloathes ſuitable to young Infants: But they flatly refuſed to give her one crumb of Bread, or ſo much as one threed of cloaths, unleſs her Husband would ſubſcribe a Paper.

For which end they ſent their Treaſaurer expreſs to Priſon. Mr. *Kirkwood* anſwered, he would ſubſcribe any Paper they pleaſed, providing it were not prejudicial to his Cauſe depending before the Lords. Upon which they flately refuſed to give out any thing.

From Priſon he wrote to his Advocates, deſiring them to give in a Bill to the Lords, which accordingly was done on the Tueſday; He wrote alſo to the Maſter of *Stair*, the Kings Advocate, humbly repreſenting to his Lordſhip, he behooved now to turn ſail, and defend, according to his place, the Lieges from the Oppreſſion and Injuſtice of Illegal and Cruel Men.

About nine a clock on Munday the Proveſt ſent three Officers to Priſon to tell him, to provide a houſe againſt ten to put his goods in. My Goods, ſaid he to the Officers, are in my own houſe, I mind not to remove them.

This Anſwer being carried to the Proveſt by theſe Officers, he ſent them back to tell him, he muſt go out of Priſon to ſee his goods ejected. Out I will not go; replyed he to the Officers, till I know who put me in, (for ſome ſaid it was by the Proveſts Order only, others the Councils) and for what Cauſe or Crime I'm impriſoned; And if I be liberate, when I go out. Away again go they to the Proveſt; and return with orders to drag him out, if he will not come willingly, and

with

with all telling him, that the Proveſt refuſed to anſwer any of theſe Queſtions. Upon all which four Heads, he by chance having a Notar by him took Inſtruments.

Thus he was dragg'd out of his own houſe to Priſon, and out of it again to his own houſe. This looks liker a Romance, than a Law-plea, and would be no ill Subject for a Comedie, if it could end well.

In ſhort, (for a larger Account of this paſſage is to be had elſewhere) the four Officers with other four men, of which one was the Deacon of the Wrights, a Member of the Council, fell to work, and pull'd down in a moments time above 40 well illuminate *Maps* or Carts, a great number of Pictures, Taliduces, Chronological Tables, and many fine Cuts or Delineations of the Holy Scriptures, Antiquity, *&c.* wherewith he had two large Rooms compleatly hung. All which with 1800 Grammars, printed at *London*, in looſe ſheets they threw out, not into the Cloſs, a place ſomewhat ſecure and cleanly; but into the open dirty ſtreet. After this they pull down as haſtily the Hangings of the Chambers and Beds, and break into pieces fine *Dutch* Preſſes; caſting out in many ſmall parcels the Laces, Linnens, and what elſe was in them.

Miſtreſs *Kirkwood* moſt earneſtly begg'd theſe men to let her put the Laces and Linnens, and other ſmall things into Coffers. We muſt obey orders, ſaid they; go to the Magiſtrates, and ſeek leave; we are diſcharged to give you a minute. Upon this ſhe ſent twice to them but got no return. At laſt ſhe went her ſelf to Baily *Higgins*, and in a moſt humble manner with tears intreated him not to ſuffer theſe men to deſtroy all her Goods. Go to the Proveſt, ſaid he, for he does all. I cannot go to him, reply'd the poor ſtranger; for he is a furious man: And with much ado got ſhe theſe words uttered; ſo great a weight was on her Spirit. The Baily moved with ſome compaſſion at that time went to the Proveſt, who returned this Anſwer, That he would not grant one minute, unleſs her Husband would ſubſcribe a Dimiſſion; which if he would do; he ſhould not only get days, but weeks to tranſport himſelf. I know, ſaid ſhe, my Husband will ſubſcribe no ſuch Paper! You need not then, reply'd the Baily, expect one minute of time.

'Tis needleſs here to relate, with how ſad a heart this poor afflicted Woman return'd back to ſee her Goods all deſtroy'd: And to add to her ſorrow, ſhe went and came by a Lough ſide, (that ſhe might ſhun the gazing multitude) where ſhe was forced to waſh her Feet and Legs too in the cold of Winter.

Now, if this be not *Arbitrary Government* in its vigour; or that, which Lawyers call *Concuſſion*, and common People *Club-Law* in its rigour, let the

the World judge: On design and of purpose so to spoil and destroy mens Goods, that you may force them to give you all your will.

The former Magistrates use to boast, they built the best House in *Scotland* for their School-master, and the present may be ashamed they have spoiled it of the best furniture, For *Mr. Kirkwood* may say without vanity, or speaking beyond the Truth, he had the best furnisht house of any of his Employ in *Scotland*, the Effects or Goods in it being above nine Thousand Merks.

What lots or dammage he has sustained by this ejection, and what reall want or embezilment of his goods there is, cannot be easily demonstrated. But of this with the Expence of this Plea a fuller account is given else where.

After all the goods were thrown out of doors, excepting some chimneys and a few other things, which they possess to this day, and what were in his Closet or Study, which that day was left entire for another Rior, as you shall hear, he very innocently slipt from the Officers up to the Palace (about 20 paces from his house) which is a Sanctuary into which they dare not set their foot: where having rested 2 or 3 hours in the Earl of *Lithgow*'s house, he afterward came steping into *Edinburgh*, by the help of the Moon through dub and mire, not keeping the ordinary rode for fear of the Provest's hounds, that were become almost mad, they had lost the Sent of their Prey. Of this Passage you have a fuller account in the larger Information.

After he had come to *Edinburgh*, and inform'd his Advocates of all that had happen'd him in *Lithgow*; they advised him to seek back his Bill, that was given in to the Lords: For said they, the Crime, the Town is guilty of, is of a much higher nature, than the Lords of Session can punish; and doth properly belong to the Lords of their Majesties secret Council. Accordingly he went to Sir *Alexander Gibsons* Chamber and got back his Bill. His next work was to go to the Master of *Stair* then the Kings Advocate, whom he casually rancountred coming out of the Countess of *Kincardins* Lodging. We are well met, said My Lord: I received your Letter: I know your whole Affair: They are a distracted People you have to do with. I would advise you to leave them. You will not want a Place. Will you accept of fifty Pounds *Sterling*, and pass from this Riot of Imprisonment, and be payed up to this day of all the Profits that belong to you as School master? And besides they will pass the fine. Alas, *My* Lord, repli'd *Mr. Kirkwood*, I find you know not the whole Business. That, they did on Saturday, of which I wrote from prison to your Lordship, Is nothing in compare of what they did on Munday. I'm ruin'd, *My* Lord; I'm utterly

ruin'd

ruin'd. They have deſtroy'd all my goods; thrown them out in parcels into the filthy mire. Fifty Pounds! Many fifties will not repair my loſs. His Lordſhip gave no return, but lifting up his hands and eyes to the Heavens, ſaid; They are gone mad: Certainly they are mad. And with that run down ſtairs. This was on Wedenſday 12 of *February* 90.

The day after *Mr. Kirkwood* went into the Seſſion houſe, and as he is entring within the Bar, he meets *Mr. Stuart*, who with a ſmile took him by the hand very heartily, ſaying, I wiſh, Mr: *Kirkwood*, this buſineſs 'twixt the Town and you were taken away. Will you agree with them? You are the only man, replyed Mr *Kirkwood*, that has ſtopt our Agreement. You know very well, Sir, when my Lord Advocate at his firſt compearance at the Bar for the Town, adviſed my Lord *Philiphaugh* to call both Parties to his chamber, and there to take away Differences in a Friendly manner: that I then anſwered, I was moſt willing to refer my ſelf abſolutely to his Lordſhip, tho the Towns Advocate: You replyed, Things were come ſo great a length, that they could not be taken away, but by a Sentence of the Lords. And now after you have ruined me, you would have me to agree. Have not I juſt ground to retort your own Argument; and now tell you, maters are come to ſuch a height, that they cannot be taken away, but with a ſevere Sentence, not only of the Lords of Seſſion; but alſo of their Majeſties Secret Council. 'Tis beſt things be taken away peaceably, ſaid Mr. *Stuart*: Will you yet refer your ſelf to his Lordſhip? And with this he again takes Mr. *Kirkwood* by the hand, and leads him to the Advocate who was ſitting on a bench in the outer houſe: My Lord Advocate ſaith Mr *Stuart*, Mr. *Kirkwood* is willing to refer himſelf in this affair 'twixt the Town and him to your Lordſhip. It ſhall be ſore againſt my will, repli'd my Lord, if I undertake ſuch a task. Will you refer your ſelf to my Lord, ſaid Mr *Stuart* again to Mr *Kirkwood*. Such deference I bear his Lordſhip, replied the other, and ſo diſcreet and generous a Perſon I judge him to be, that I think I need not fear to do it.

In ſhort, an Appointment is there made againſt eight a clock the next morning; or if that fail'd, at two in the afternoon in the Advocates Chamber: But the Proveſt, Baily *Higgins*, and *Jerom Hunter*, Treaſurer, who were then in *Edinburgh*, refuſing to ſubſcribe an abſolute Submiſſion, that Appointment came to nought, only Mr. *Kirkwood* to ſignify his willingneſs did deliver his Submiſſion in moſt abſolute terms, but unſubſcribed to his Lordſhip in preſence of his eldeſt Son, telling he was ready to ſubſcribe that Paper, if the Town would do the like.

Mr. *Stuart*, after the hours of appointment were elapſt, ſent for

Mr.

Mr. *Kirkwood* to his Chamber, and desired he would hear him read over a Qualified Submission, which the Town had drawn up. And shall I, said Mr. *Kirkwood*, subscribe an Absolute Submission, and the Town a Qualified One? You may hear it, said Mr. *Stuart*. 'Tis an ill Tale that may not be heard, said the other. He was not well begun, when Mr. *Kirkwood* cry'd, Stop, Mr. *Stuart*, *Ex ungue Leonem*. I know what's in that paper. I will as soon have that finger cut off, as subscribe it. In a word, there were such absurd and ridiculous Clauses and Conditions in it, that its a wonder the Town could fancy Mr. *Kirkwood* would consent to them. One was, That he should acknowledge it was in the Towns power to turn him out at pleasure. This he had all alongs denyed, and now by his Subscription to acknowledge it, had been a sign of very great weakness. And besides, the Lords had by two several *Interloquitors* in express Terms, Declared, that the Town could not Deprive him of his Charge, *At that time*, *For that Cause*; And, *After that manner*; And by an infallible Consequence, they could not do it *At Pleasure*: And so his Subscription had been a down right Contradiction to the Sentence of the Lords.

On the 19 of *February*, The Cause is again Debated at the Bar. After hearing, My Lord *Philiphaugh* told both Parties he would Report on the 25th. But the Session being to rise on the 28, no Report was made. And here Matters stand betwixt the Town and Mr: *Kirkwood*, as to *Civil Law*; But as to *Club Law*, take this other Touch.

He was hardly well arrived at *Lithgow*, on the first of *March*, when immediately without any Citation, he was call'd before the Council, and there ordered to remove out of his Study, which, as is above related, was left entire at the former Riot, all his Books, Papers, and what else he had in it: The Study, repli'd Mr. *Kirkwood*, and whole house is mine, and will be so, till the Lords determine the contrary: And therefore I'le remove nothing out of it. We will do it then by force, said the Provest. You may on your hazard, repli'd Mr. *Kirkwood*; and so went out of the Council.

It were very tedious to relate here the many strange Circumstances of this Scene. You have them at large in the other Information. Let it suffice here to tell that on the 4*th* of *March*, as Instruments then taken attest, Baily *Smith*, *James Muckle* Deacon of the Wrights and some others broke open with Hammers and other Tools his Closet door; and threw out into the dirty and nasty streets all his Books, both bound and in Sheets and many other things of verry great worth, partly his own, partly belonging to others.

His loss and dammage (not to say, the Publicks) by this Riot is

very considerable. He is ready to Depone that he has lost thousands of Papers, partly composed by himself, partly by others in *Prose* and *Verse*; which he would not have parted with for a vast sum, as their real worth: But as to the *Pretium Affectionis*, is by far of much more Value. If a Lady of Honour, that caused carry away from a Gentleman a *Black Bird*, and it perishing in her hands, was found obliged to pay him Nine Hundred Merks, as *Pretium Affectionis*; What must be reckoned for the real worth of so many Thousands of fine Papers, being the Product of 30 Years great Labours; (For, since some of these were composed, is so long,) And how great the *Pretium Affectionis*, 'tis left to Impartial Judges to determine.

The Conclusion.

MR. *Kirkwood* hopes and expects, whosoever shall impartially, and without prejudice consider this whole Affair with all its circumstances, he will excuse him for being so particular in these matters. He's abus'd in the highest degree, both as to his good Name, and Fortune. They brand him with this *Stigma*, *A Reviler of the Gods of his People:* And in one of their Acts call him, *A Person void of the fear of God.* Whereas there's no Man hath a higher veneration, and a greater deference to these, that GOD sets over us, than he, according to the express Command of GOD, *Submit your selves to the King as Supreme, and to these, that are sent by him.* And is it not for this very thing he has suffered? For his Loyalty in its strict and proper sense; *viz.* For his firm adherence to the Laws of the Kingdom, and for keeping the publick Place of Worship, establisht by a common Law; till the Powers of the Land make an alteration therein; the external Policy and Government of the Church being in his judgement ambulatory, and indifferent, left to the Wisdom and Discretion of Superiours, to be disposed of as they shall judge convenient. And tho there may be a Worse and a Better; yet, if neither of them be sinful; private Persons for peace's sake ought cheerfully to comply with that, which to them (tho perhaps not in it self) may seem not so convenient. Which things, tho in their own nature indifferent; yet being once settl'd, and establisht by Law, cease to be so, and become our duty, not so much; because ordain'd to be done by Man; as that it is enjoin'd us by GOD to obey such Laws of Men.

And yet he has been most virulently aspers'd, and traduc'd, and tho he has behav'd very dutifully in his Office and through the Blessing of

GOD

GOD on his endeavours, done much good in that Place, and liv'd inoffensively there these 15 years past; yet hath he been most barbarously treated, as a Villain and noisome Pest, that was no longer to be endur'd; tho there came no Complaint in against him from any Person within or without the Town: And tho the Lords of Session did put a Stop and Sist to all execution against him or his upon the Town Councils Sentence; yet their Authority hath been manifestly vilipended, contemn'd, and baffl'd, and their Orders contraven'd to the great scandal of the Lieges: For prevention whereof, as much as is possible, this Account is offered in vindication of the Lords of Session; and of Mr *Kirkwood*; he being now not alone concern'd in this matter: But with him the Judges of the Land, and the Authority, by which they are settl'd, all suffering with him in this Cause.

Can therefore any man in reason blame him, if in a fair and legal way he seek a just Reparation of the Loss and Dammage, he has sustained by wicked and cruel *Men*? They have rob'd him of his Purse, and in a most violent manner taken the Coat off his back, and given it to another. And shall he sit with this injury? Do you not rather judge it his duty, to use some lawful mean, whereby he may recover that, which he hath earn'd with the sweat of his Brows.

And think you it just, that poor, ignorant, simple People, should be punisht for small, and almost inconsiderable Faults, done perhaps rashly, or inadvertently; or, may be, out of want and necessity; and yet a Society, a *Senate*, or Town Council, who are pickt or chosen out of a great number, as the Wisest and most Intelligent in the place, and whose very Office it is to protect and defend the Oppressed, pass *Scart-free* for most atrocious and horrid Crimes, perpetrated, not rashly, or ignorantly; but most deliberately, and wittingly; not once, or twice; but frequently, over and over, again and again? It might be added, (were it not a little off the purpose) not to one, two or three persons; but to a great number of all sorts in that place, of which an Account may be had elsewhere.

Were therefore things duly pondered, it would be found, that not *Mr. Kirkwood*; but the whole Members of the Town Council of *Lithgow* are to be justly lookt on as *Contemners* and *Revilers of the Gods*: For in this present Case, they are not Rulers, or Magistrates; but private persons; no less, than he himself; being his adverse Party. What? Revilers only! They are Revilers in a most high and superlative degree. Never, yea never was such a palpable and manifest Affront put upon the Rulers of this Kingdom as in this present Case. 'Tis no less a Crime in effect, and in a genuine and true Construction of the Towns Actings, than if they had thrown filth & mire at the Faces of the Lords of Session (to go no higher) and spit in their very Countenances, bidding them utter Defiance.

A General Account

Of the *Dammage*, *Loſs*, *Expence* and *Trouble*, Mr *Kirkwood* has met with by this Plea preceding *April*, 1690.

That all theſe four Heads are very conſiderable, may appear from theſe following Particulars.

I. Know that he Raiſed and Diſcuſt Three *Suſpenſions*, an *Advocation*, a *Summonds* of *Reduction*; a *Declarator*, cited to *Edinburgh* the whole Town Councill; Gave in to the Lords *Seven Bills*; 82 *Informations*, Took 31 *Inſtruments*, Extracted 7 *Acts* made by the Town; Got doubles of their *Bills*, beſides many other Papers, as *Minutes*, *Interloquitors*, *&c.*

II. What *Conſultations* and *Pleadings* coſt him, (the Cauſe being 13 or 14 times Debated at the Bar) he will not here ſet down: Only he acknowledgeth, he had to do with mighty Diſcreet Gentlemen.

III. He attended the Plea at *Edinburgh* 14 or 15 Weeks. What his *Ordinary* and *Extraordinary* Expence might amount to in that time, having to do with ſo powerful a Party; They know beſt who have Experience in ſuch Attendance.

IV. He travell'd to, and from *Edinburgh* 18 times on that Account.

V. What Dammage he ſuſtained by having ſo much Fine Furniture caſt out into the Streets, in manner above mentioned, may be better Conjectured than Demonſtrated. He can produce an Inſtrument taken two or three dayes after the Ejection; Bearing, That he did ſhew to a Notar, and two Witneſſes, a vaſt number of Goods all broken and ſpoiled; his Books, Papers, Maps, and things of that kind, partly torn and rent, partly covered over with filth and mire.

VI. The reall loſs, or Embezilment of Goods is very conſiderable. And how can it be otherwiſe? They lying here and there in ſmal parcels in the ſtreet, not only all day, but a good part of the night.

VII. The Loſs ſuſtain'd by the Auction of more than the half of the Goods, at leaſt as to bulk, they rather being given away, than ſold, (ſo inconſiderable was the price) is not little.

VIII. The Tranſporting what reſted into *Edinburgh*, viz. Eleven Carts full beſides ſingle Horſes; And that when the way was worſt, and the Labouring throngeſt in the middle of *March*.

IX. Add to theſe his Salaries (400 merks a Year) ſince *Whitſunday* 1689 with the Profites and Caſualities of the School from *Martinmaſs* thereafter. *Item*, The Houſe and Garden.

¶ *All Theſe no queſtion will amount to a good* Round Sum, *if duly conſidered, eſpecially, if you forget not to ſubjoyn the* Pretium Affectionis *of things, as well as* Valoris, *and the wrongous Impriſonment, and other Rits above rehearſed.*